State of Oregon
Department of Environmental Quality

Response to Selected Comments from Advisory Committee Members from June 4th Meeting.

8/15/2012

- AC Comment: Through reading about mad cow disease (BSE), concluded that USDA regulations are not that strong and found BSE can be found in blood as well. Blood should also be included in the definition of type 4 feedstock.

Prions may be an issue in blood, but if the blood is coming from animals killed for human consumption, the exposure to humans from the blood remaining in the meat based on direct consumption is substantially higher than any exposure from blood that has been through composting or anaerobic digestion. For blood coming from sick or potentially sick animals or other animals not killed for human consumption, the threat of prion exposure may be substantially higher. We are now proposing to add language that whole cattle from which Specified Risk Material has not been removed, non-ambulatory cattle, and cattle displaying symptoms of BSE are included as part of Type 4 Feedstock.

- AC Comment: It is not useful to include digestate in the definition of composted material. Solid digestate is not suitable for use as a compost and is not a useable product straight from digestion. Solid digestate is suitable as a soil amendment or for direct land application but it would need to go through a maturation process for use as compost.

The definition has been amended to indicate that solid digestate may need additional composting to be useable in certain applications.

- AC Comment: It seems the rules need to address thresholds for the amount of stored biogas and on-site storage capacity.

In reviewing permit applications for proposed anaerobic digesters, DEQ staff will evaluate a proposals biogas storage capacity, in addition to the planned use of the biogas. DEQ will also ensure all facility plans are approved by local Building Departments."

- AC Comment: What triggers a permit, the feedstock or the technology? The feedstock should trigger the permit, not the technology.

Permit requirements are triggered based on whether the material is a solid waste, and the risk factors involved in how the material is proposed to be managed.

Division 93 Definitions and CT Rules

- AC Comment: The definition of conversion technology refers to *melting*. Melting should be defined in rule. The word *energy* should be added after '…to produce…" (would then read "…other than melting to produce *energy*, fuels, chemicals, or other useful products…")

The common dictionary definition of melting is all that we intended to apply here. Facilities that directly produce energy (electricity, steam, etc.) are generally energy recovery facilities, which are a form of incinerators, and are not considered to be conversion technology facilities.

- AC Comment: In the conversion technology definition the term *useful product* is used. If this term is not defined then we need to define what is meant by *useful product*. If a product has a market value then a product should be considered useful.

We did not want to imply a specific definition for the product, or intend to indicate that the product is some sort of final product. As long as the material is produced on purpose and has some sort of use and is not destined directly for disposal, we consider it to be useful, even if it will still require further processing to become a final product that can be used.

- AC Comment: The definition of solid waste talks about *useless or discarded*. Is this term defined? If not, it should be.

Making a change to the general definition of solid waste is beyond the scope of this rulemaking. The Department's interpretation of "useless or discarded" will be discussed at the August 16 advisory committee meeting

- AC Comment: Perhaps drop the word 'sources' to eliminate the fear of proprietary information being released. [Referring to draft rule OAR 340-093-0070(3)(h)(A).]

"Sources" was supposed to indicate only general sources, not the specific companies producing the feedstocks. We may consider adding "general" in front of "sources" to lessen the concern about proprietary information being required to be submitted.

- AC Comment: Where is the mechanism that is applied across the board to protect the public from the risk of products? Paper has poisoned people for decades, but paper is not regulated as solid waste. DEQ's approach is random. It is too targeted and narrow. DEQ needs to figure out how to apply this approach to all products.

Much of the environmental damage from paper production comes from the processing of virgin wood fiber through the kraft papermaking process to produce wood pulp, and the use of strong bleaching agents to bleach white the brown pulp from virgin wood fiber. DEQ regulates these through air and water permits. DEQ's solid waste program has no authority to regulate virgin paper production, except to the extent that it produces solid wastes that are subject to regulation. Paper that is being recycled is a solid waste, and DEQ has the authority to regulate it, but only does so for materials and processes that pose a risk to human health and the environment.

- AC Comment: [Regarding draft OAR 340-096-0170(13)(now (12))] The market will dictate concerns about risk. This has not been something that DEQ regulated in the past. DEQ has never looked at the risk of products. This is a deal breaker for businesses. It also works to the detriment of the recycling programs.
- The whole idea is to make things clear for a CT facility to get permitted. Without standards to test against it would open up a gray area. If the requirement is vague that's problematic. We need to make it clear.

DEQ changed the original proposal to remove reference to virgin material. The applicant conversion technology facility specifies what materials its products are equivalent to, so for example, a plastics pyrolysis facility might claim that its output is intended to be substituted for raw petroleum, because they are marketing their oil to the same refinery that processes raw petroleum, and the refinery is using both sources to produce its products. Although markets do take risks into account to a certain extent, sometimes in the absence of regulations, companies manage materials in a way that externalizes the risk, such that the company does not properly value the damage that it may create.